IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revision No.44 of 2007
Date of Decision:- 12.02.2007

Vivek Luthra ....Petitioner(s)
through
Mr.Jaswinder Singh, Advocate

vs.

Vinay Kumar Kakria ....Respondent(s)
through
Mr.Munish Bhardwaj, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

This criminal revision petition is directed against the order dated 3.1.2007 passed by the learned Judicial Magistrate, Ist Class, Jalandhar whereby the petitioner's defence evidence has been closed after observing that numerous opportunities have already been granted to him.

The facts may be briefly noticed.

The respondent-claimant has filed a complaint under Section 138 of the Negotiable Instruments Act read with Section 420 IPC against the petitioner *inter alia* alleging that the petitioner had given a cheque in the sum of Rs.1,50,000/- to the respondent to discharge his debt liability which, upon presentation to the Bank, has been dishonoured.

The respondent-claimant led his evidence and closed the same on 9.5.2005. Thereafter, several opportunities were granted to the petitioner to lead his defence evidence including the last opportunity which was granted subject to the condition that the petitioner would bring his entire evidence at his own responsibility. The petitioner, however, did not bring the evidence. Consequently, the learned Judicial Magistrate vide the impugned order, closed his evidence.

Aggrieved, the petitioner has approached this Court.

On January 16, 2007 it was observed that since sufficient opportunities had been granted to the petitioner, the order passed by the learned Judicial Magistrate would not warrant any interference. However, as prayed for by the petitioner and in order to give one and the last opportunity subject to payment of exemplary costs, notice was issued to the complainant.

After hearing learned counsel for the parties and having regard to the fact that the petitioner has already availed more than sufficient opportunities to lead his defence evidence, and as it appears that he is deliberately delaying the disposal of the complaint against him but at the same time in order to give one more opportunity to him to produce the defence evidence, if any, this petition is partly allowed to the extent that the impugned order dated 3.1.2007 is modified and the learned Judicial Magistrate is directed to give one opportunity to the petitioner to produce his entire evidence at his own responsibility, however, subject to payment of costs of Rs.15,000/- to the respondent. In case the petitioner fails to make payment of costs either in cash or through a demand draft, no evidence produced by him shall be taken on record.

It is informed that due to pendency of this criminal revision, the complaint has been adjourned sine die though no interim direction was issued. The parties are directed to appear before the learned Judicial Magistrate on 2.3.2007 who shall thereafter fix a date for the petitioner's evidence, which however shall not be fixed beyond April 16, 2007.

February 12, 2007 **(SURYA KANT)**
poonam **JUDGE**